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ORIGINAL.**


ATTORNEY FOR PLAINTIFF

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

WILLIAM "LEVI" FAIRCHILD, SARAH
FAIRCHILD, and OLIVIA FAIRCHILD,

Plaintiffs,

v.

BRANDON A. WHITWORTH, JUSTIN
KNOWLES, KNOWLES ENTERPRISES, LLC,
a dissolved Washington limited liability
company, KNOWLES ENTERPRISES LLC, a
Washington limited liability company,
DISCOUNT TIRE CO. OF WASHINGTON,
INC., a Washington corporation, DISCOUNT
TIRE CO., INC., an Arizona corporation,

Defendants.

Case No. 20CV23378

AMENDED COMPLAINT
(Personal Injury/Loss of Consortium)

**(CLAIM NOT SUBJECT TO
MANDATORY ARBITRATION)**

Prayer amount \$9,827,855.36

Fee Authority: ORS 21.160(1)(d)

PLAINTIFF ALLEGES:

1.

At all times mentioned herein, Plaintiffs William Levi Fairchild ("Levi Fairchild"), Sarah Fairchild and Olivia Fairchild are and were residents of Linn County, Oregon.

2.

Defendant Brandon Whitworth ("Whitworth") was and is a Washington resident, and operated a vehicle on roads and highways in Oregon.

3.

At all times mentioned herein, Defendant Justin Knowles ("Knowles") was and is a Washington resident, and owned and/or operated a vehicle which was operated on roads and highways in Oregon.

Page 1 -AMENDED COMPLAINT (Personal Injury/Loss of Consortium)



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1 4.

2 At all times mentioned herein, Defendant Knowles Enterprises, LLC ("Knowles
3 Enterprises-Dissolved"), was a Washington limited liability company owned and/or managed by
4 Justin Knowles, and which was dissolved on or about May 3, 2020.

5 5.

6 At all times mentioned herein, Defendant Knowles Enterprises LLC ("Knowles
7 Enterprises-Active"), is a Washington limited liability company owned and/or managed by Justin
8 Knowles, and which was formed on or about May 15, 2020.

9 6.

10 At all times mentioned herein, Defendant Discount Tire Co. of Washington, Inc.
11 ("Discount Tire WA"), was and is a Washington corporation, authorized to do business in that
12 state and generally in the business of selling tires and tire-related products.

13 7.

14 At all times mentioned herein, Defendant Discount Tire Co., Inc. ("Discount Tire Inc.")
15 was and is an Arizona corporation, authorized to do business in that state, and serving as the
16 corporate entity for Discount Tire WA.

17 8.

18 At all times mentioned herein, Interstate 5 was and is a public thoroughfare running in a
19 generally north and south direction, part of which lies in the City of Salem, Marion County,
20 Oregon. At all times mentioned herein, Delaney Road Southeast was and is a duly-dedicated
21 public thoroughfare running generally east and west direction, in Salem, Marion County,
22 Oregon, and at some point said highways intersect.

23 ///

24 Page 2 – AMENDED COMPLAINT (Personal Injury/Loss of Consortium)
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9.

On or about July 8, 2018, Plaintiff William "Levi" Fairchild ("Levi Fairchild") operated his vehicle in a southbound direction on Interstate 5 just north of the intersection with Delaney Road Southeast in said City, County and State, with his daughter, Plaintiff Olivia Fairchild, in the front passenger seat, and his daughter, Chloe Fairchild, in the rear passenger seat.

10.

At all times mentioned herein, Defendant Whitworth operated a truck and trailer owned by Defendants Knowles, Knowles Enterprises—Dissolved and/or Knowles Enterprises—Active, and was driving northbound on Interstate 5, near the intersection with Delaney Road Southeast in said City, County and State, when a tire dislodged from the trailer he was pulling. Said tire went over the median and struck the front end/windshield portion of the vehicle which Plaintiff Levi Fairchild was operating and which Plaintiff Olivia Fairchild was a front seat passenger, causing injuries and damages set forth more fully below.

11.

Said incident involving the vehicles operated by Defendant Whitworth, and owned by Defendants Knowles, Knowles Enterprises—Dissolved and/or Knowles Enterprises—Active, and Plaintiffs' vehicle, resulted from said Defendants' negligence, and each of them, in the following particulars:

11.1 In failing to keep and maintain a proper or adequate lookout;

11.2 In failing to keep the motor vehicle and/or trailer they were operating under proper or adequate control to avoid striking other vehicles then and there lawfully upon said roadway;

11.3 In operating their vehicle at a speed which was greater than was reasonable and

Page 3 – AMENDED COMPLAINT (Personal Injury/Loss of Consortium)

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1 prudent, with due regard to circumstances and conditions then and there
2 existing;

3 11.4 In failing to properly mount the tire that became dislodged from the trailer;

4 11.5 In failing to inspect the tire to determine whether it had been secured properly;
5 and,

6 11.6 In operating an unsafe vehicle on a roadway.

7 It was foreseeable that said negligence would cause injury to others, including Plaintiff.

8 12.

9 Said incident involving the vehicles operated by Defendant Whitworth, and owned by
10 Defendants Knowles, Knowles Enterprises—Dissolved and/or Knowles Enterprises—Active,
11 and Plaintiffs' vehicle, resulted from Defendants Discount Tire WA's and Discount Tire Inc.'s
12 negligence, and each of them, in the following particulars:

13 12.1 In selling, distributing, or otherwise providing a tire kit to Defendants Whitworth,
14 Knowles, Knowles Enterprises-Dissolved and/or Knowles Enterprises-Active,
15 when it knew, or reasonably should have known, the tire kit contained lug nuts
16 that did not match those of the subject trailer, and could cause injury to others,
17 including Plaintiffs;

18 12.2 In failing to warn Defendants Whitworth, Knowles, Knowles Enterprises-
19 Dissolved and/or Knowles Enterprises-Active, of the miss-sized lug nuts in the
20 tire kit it sold them when it knew, or reasonably should have known, the tire kit
21 contained lug nuts that did not match those of the subject trailer, and could cause
22 injury to others, including Plaintiffs;

23 ///

24 Page 4 – AMENDED COMPLAINT (Personal Injury/Loss of Consortium)
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13.

As a result of Defendants' negligence, and each of them, and the incident described above, Plaintiff Levi Fairchild sustained the following injuries:

- 13.1 Amputation of right index finger;
- 13.2 Shortening of right index metacarpal prior to full amputation;
- 13.3 Metacarpal shaft fracture with apex radial and dorsal angulation;
- 13.4 Persistent nonunion of right index metacarpal fracture;
- 13.5 Right second metacarpal malunion;
- 13.6 Metacarpal nonunion with plate fixation;
- 13.7 Right scaphotrapezoidal dislocation;
- 13.8 Right mid-shaft radius fracture, AKA Galeazzi fracture dislocation;
- 13.9 Fractures and dislocations in all five fingers at carpal metacarpal joints;
- 13.10 Right thumb Bennett's fracture;
- 13.11 Right index finger metacarpal fracture and carpometacarpal dislocation;
- 13.12 Closed displaced fracture of shaft of second metacarpal bone, right hand;
- 13.13 Closed traumatic dislocation of proximal metacarpal bone, right;
- 13.14 Fracture dislocation of the first carpometacarpal joint;
- 13.15 Right middle finger carpometacarpal dislocation;
- 13.16 Right capitate fracture;
- 13.17 Right small finger carpometacarpal joint dislocation;
- 13.18 Dorsal fracture;
- 13.19 Dislocation of metacarpophalangeal joint of right index finger;
- 13.20 Dislocation of metacarpophalangeal joint of right middle finger;

Page 5 – AMENDED COMPLAINT (Personal Injury/Loss of Consortium)

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- 13.21 Dislocation of metacarpophalangeal joint of right little finger;
- 13.22 Visible deformity over the dorsum of the index metacarpal;
- 13.23 Right hand and thumb lacerations;
- 13.24 Puncture wound of right thumb with damage to the nail;
- 13.25 Traumatic head injury with concussion;
- 13.26 Post-concussion syndrome;
- 13.27 Multiple abrasions to right arm and hand, neck and face;
- 13.28 Headaches;
- 13.29 Nausea and vomiting caused by medication;
- 13.30 Cervicalgia;
- 13.31 Sprain of ligaments of the cervical spine;
- 13.32 Strain of at the neck level;
- 13.33 Numbness in extremities;
- 13.34 Myalgias;
- 13.35 Sleep loss;
- 13.36 Mental upset and anxiety; and,
- 13.37 General stiffness and soreness.

Said injuries to Plaintiff Levi Fairchild, particularly his hand and finger injuries, are permanent in nature.

14.

As a result of Defendants' negligence, and each of them, and the injuries Plaintiff Levi Fairchild sustained, Plaintiff Levi Fairchild has incurred economic damages in the form of medical expenses in the amount of \$168,288.36, and likely will incur future medical expenses in

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the approximate amount of \$50,000.00. Moreover, Plaintiff Levi Fairchild also has incurred past and future loss of earning capacity in the amount of \$1,192,652.00, and pecuniary losses in the form of household services in the amount of \$387,000.00. Therefore, his economic damages total \$1,797,940.36.

15.

As a further result of Defendants' negligence, and each of them, and the injuries Plaintiff Levi Fairchild sustained, Plaintiff Levi Fairchild has endured pain, suffering, disruption of his normal activities, and emotional distress, all of which entitle him to noneconomic damages in the amount of \$7,500,000.00.

16.

As a result of Defendants' negligence, and each of them, and the incident described above, Plaintiff Olivia Fairchild sustained the following injuries:

1. Abrasions and cuts at multiple sites;
2. General stiffness and soreness
3. Emotional upset;
4. Fear of riding in a vehicle; and,
5. Sleep loss.

17.

As a result of Defendants' negligence, and each of them, and the injuries Plaintiff Olivia Fairchild sustained, Plaintiff Olivia Fairchild has incurred economic damages in the form of medical expenses in the amount of \$4,915.00. Therefore, her economic damages total \$4,915.00.

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Page 7 – AMENDED COMPLAINT (Personal Injury/Loss of Consortium)

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18.

As a further result of Defendants' negligence, and each of them, and the injuries Plaintiff Olivia Fairchild sustained, Plaintiff Olivia Fairchild has endured pain, suffering, disruption of her normal activities, and emotional distress, all of which entitle her to noneconomic damages in the amount of \$25,000.00.

19.

As a further result of Defendants' negligence, and each of them, and the injuries and damages sustained by Plaintiff Levi Fairchild, Plaintiff Sarah Fairchild has sustained a loss of consortium in the amount of \$500,000, all of which entitle her to economic damages in the amount of \$500,000.00.

20.

Plaintiffs request a jury trial.

WHEREFORE, Plaintiff Levi Fairchild prays for judgment against Defendants, and each of them, for his economic damages in the amount of \$1,797,940.36, for his noneconomic damages in the amount of \$7,500,000.00, and for his reasonable costs and disbursements.

Plaintiff Olivia Fairchild prays for judgment against Defendants, and each of them, for her economic damages in the amount of \$4,915.00, for her noneconomic damages in the amount of \$25,000.00, and for her reasonable costs and disbursements.

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Page 8 – AMENDED COMPLAINT (Personal Injury/Loss of Consortium)

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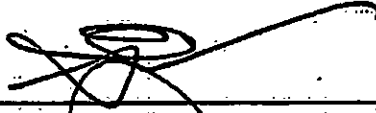
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1 Plaintiff Sarah Fairchild prays for judgment against Defendants, and each of them, for
2 her economic damages for loss of consortium in the amount of \$500,000.00, and for her
3 reasonable costs and disbursements.

4 DATED this 8th day of July, 2020.

5 Respectfully submitted,

6 SWANSON, LATHEN, PRESTWICH, P.C.

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8
9 Travis S. Prestwich OSB No. 003617
Of Attorneys for Plaintiff
10 travis@slamlaw.com

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24 Page 9 – AMENDED COMPLAINT (Personal Injury/Loss of Consortium)

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ATTORNEY FOR PLAINTIFF

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

WILLIAM "LEVI" FAIRCHILD, SARAH
FAIRCHILD, and OLIVIA FAIRCHILD,

Plaintiffs,

v.

BRANDON A. WHITWORTH, JUSTIN
KNOWLES, KNOWLES ENTERPRISES, LLC,
a dissolved Washington limited liability
company, KNOWLES ENTERPRISES, LLC, a
Washington limited liability company,
DISCOUNT TIRE CO. OF WASHINGTON,
INC., a Washington corporation, DISCOUNT
TIRE CO., INC., an Arizona corporation,

Defendants.

Case No. *90CV23378*

COMPLAINT
(Personal Injury/Loss of Consortium)

(CLAIM NOT SUBJECT TO
MANDATORY ARBITRATION)

Prayer amount \$9,827,855.36

Fee Authority: ORS 21.160(1)(d)

PLAINTIFF ALLEGES:

1.

At all times mentioned herein, Plaintiffs William Levi Fairchild ("Levi Fairchild"), Sarah Fairchild and Olivia Fairchild are and were residents of Linn County, Oregon.

2.

Defendant Brandon Whitworth ("Whitworth") was and is a Washington resident, and operated a vehicle on roads and highways in Oregon.

Page 1 –COMPLAINT (Personal Injury/Loss of Consortium)



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1 3.

2 At all times mentioned herein, Defendant Justin Knowles ("Knowles") was and is a
3 Washington resident, and owned and/or operated a vehicle which was operated on roads and
4 highways in Oregon.

5 4.

6 At all times mentioned herein, Defendant Knowles Enterprises, LLC ("Knowles
7 Enterprises-Dissolved"), was a Washington limited liability company owned and/or managed by
8 Justin Knowles, and which was dissolved on or about May 3, 2020.

9 5.

10 At all times mentioned herein, Defendant Knowles Enterprises, LLC ("Knowles
11 Enterprises-Active"), is a Washington limited liability company owned and/or managed by Justin
12 Knowles, and which was formed on or about May 15, 2020.

13 6.

14 At all times mentioned herein, Defendant Discount Tire Co. of Washington, Inc.
15 ("Discount Tire WA"), was and is a Washington corporation, authorized to do business in that
16 state and generally in the business of selling tires and tire-related products.

17 7.

18 At all times mentioned herein, Defendant Discount Tire Co., Inc. ("Discount Tire Inc.")
19 was and is an Arizona corporation, authorized to do business in that state, and serving as the
20 corporate entity for Discount Tire WA.

21 8.

22 At all times mentioned herein, Interstate 5 was and is a public thoroughfare running in a
23 generally north and south direction, part of which lies in the City of Salem, Marion County,
24

25 Page 2 – COMPLAINT (Personal Injury/Loss of Consortium)

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Oregon. At all times mentioned herein, Delaney Road Southeast was and is a duly-dedicated public thoroughfare running generally east and west direction, in Salem, Marion County, Oregon, and at some point said highways intersect.

9.

On or about July 8, 2018, Plaintiff William "Levi" Fairchild ("Levi Fairchild") operated his vehicle in a southbound direction on Interstate 5 just north of the intersection with Delaney Road Southeast in said City, County and State, with his daughter, Plaintiff Olivia Fairchild, in the front passenger seat, and his daughter, Chloe Fairchild, in the rear passenger seat.

10.

At all times mentioned herein, Defendant Whitworth operated a truck and trailer owned by Defendants Knowles, Knowles Enterprises—Dissolved and/or Knowles Enterprises—Active, and was driving northbound on Interstate 5, near the intersection with Delaney Road Southeast in said City, County and State, when a tire dislodged from the trailer he was pulling. Said tire went over the median and struck the front end/windshield portion of the vehicle which Plaintiff Levi Fairchild was operating and which Plaintiff Olivia Fairchild was a front seat passenger, causing injuries and damages set forth more fully below.

11.

Said incident involving the vehicles operated by Defendant Whitworth, and owned by Defendants Knowles, Knowles Enterprises—Dissolved and/or Knowles Enterprises—Active, and Plaintiffs' vehicle, resulted from said Defendants' negligence, and each of them, in the following particulars:

11.1 In failing to keep and maintain a proper or adequate lookout;

11.2 In failing to keep the motor vehicle and/or trailer they were operating under

Page 3 – COMPLAINT (Personal Injury/Loss of Consortium)

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proper or adequate control to avoid striking other vehicles then and there lawfully upon said roadway;

11.3 In operating their vehicle at a speed which was greater than was reasonable and prudent, with due regard to circumstances and conditions then and there existing;

11.4 In failing to properly mount the tire that became dislodged from the trailer;

11.5 In failing to inspect the tire to determine whether it had been secured properly; and,

11.6 In operating an unsafe vehicle on a roadway.

It was foreseeable that said negligence would cause injury to others, including Plaintiff.

12.

Said incident involving the vehicles operated by Defendant Whitworth, and owned by Defendants Knowles, Knowles Enterprises—Dissolved and/or Knowles Enterprises—Active, and Plaintiffs' vehicle, resulted from Defendants Discount Tire WA's and Discount Tire Inc.'s negligence, and each of them, in the following particulars:

12.1 In selling, distributing, or otherwise providing a tire kit to Defendants Whitworth, Knowles, Knowles Enterprises-Dissolved and/or Knowles Enterprises-Active, when it knew, or reasonably should have known, the tire kit contained lug nuts that did not match those of the subject trailer, and could cause injury to others, including Plaintiffs;

12.2 In failing to warn Defendants Whitworth, Knowles, Knowles Enterprises-Dissolved and/or Knowles Enterprises-Active, of the miss-sized lug nuts in the tire kit it sold them when it knew, or reasonably should have known, the tire kit

Page 4 – COMPLAINT (Personal Injury/Loss of Consortium)

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1 contained lug nuts that did not match those of the subject trailer, and could cause
2 injury to others, including Plaintiffs;

3 13.

4 As a result of Defendants' negligence, and each of them, and the incident described
5 above, Plaintiff Levi Fairchild sustained the following injuries:

- 6 13.1 Amputation of right index finger;
- 7 13.2 Shortening of right index metacarpal prior to full amputation;
- 8 13.3 Metacarpal shaft fracture with apex radial and dorsal angulation;
- 9 13.4 Persistent nonunion of right index metacarpal fracture;
- 10 13.5 Right second metacarpal malunion;
- 11 13.6 Metacarpal nonunion with plate fixation;
- 12 13.7 Right scaphotrapezoidal dislocation;
- 13 13.8 Right mid-shaft radius fracture, AKA Galeazzi fracture dislocation;
- 14 13.9 Fractures and dislocations in all five fingers at carpal metacarpal joints;
- 15 13.10 Right thumb Bennett's fracture;
- 16 13.11 Right index finger metacarpal fracture and carpometacarpal dislocation;
- 17 13.12 Closed displaced fracture of shaft of second metacarpal bone, right hand;
- 18 13.13 Closed traumatic dislocation of proximal metacarpal bone, right;
- 19 13.14 Fracture dislocation of the first carpometacarpal joint;
- 20 13.15 Right middle finger carpometacarpal dislocation;
- 21 13.16 Right capitate fracture;
- 22 13.17 Right small finger carpometacarpal joint dislocation;
- 23 13.18 Dorsal fracture;

24 Page 5 – COMPLAINT (Personal Injury/Loss of Consortium)
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- 13.19 Dislocation of metacarpophalangeal joint of right index finger;
- 13.20 Dislocation of metacarpophalangeal joint of right middle finger;
- 13.21 Dislocation of metacarpophalangeal joint of right little finger;
- 13.22 Visible deformity over the dorsum of the index metacarpal;
- 13.23 Right hand and thumb lacerations;
- 13.24 Puncture wound of right thumb with damage to the nail;
- 13.25 Traumatic head injury with concussion;
- 13.26 Post-concussion syndrome;
- 13.27 Multiple abrasions to right arm and hand, neck and face;
- 13.28 Headaches;
- 13.29 Nausea and vomiting caused by medication;
- 13.30 Cervicalgia;
- 13.31 Sprain of ligaments of the cervical spine;
- 13.32 Strain of muscle, fascia, and tendon at the neck level;
- 13.33 Numbness in extremities;
- 13.34 Myalgias; Sleep loss;
- 13.35 Mental upset and anxiety; and,
- 13.36 General stiffness and soreness.

Said injuries to Plaintiff Levi Fairchild, particularly his hand and finger injuries, are permanent in nature.

14.

As a result of Defendants' negligence, and each of them, and the injuries Plaintiff Levi Fairchild sustained, Plaintiff Levi Fairchild has incurred economic damages in the form of

Page 6 – COMPLAINT (Personal Injury/Loss of Consortium)

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1 medical expenses in the amount of \$168,288.36, and likely will incur future medical expenses in
 2 the approximate amount of \$50,000.00. Moreover, Plaintiff Levi Fairchild also has incurred past
 3 and future loss of earning capacity in the amount of \$1,192,652, and pecuniary losses in the
 4 form of household services in the amount of \$387,000.00. Therefore, his economic damages
 5 total \$1,797,940.36.

6 15.

7 As a further result of Defendants' negligence, and each of them, and the injuries Plaintiff
 8 Levi Fairchild sustained, Plaintiff Levi Fairchild has endured pain, suffering, disruption of his
 9 normal activities, and emotional distress, all of which entitle him to noneconomic damages in the
 10 amount of \$7,500,000.00.

11 16.

12 As a result of Defendants' negligence, and each of them, and the incident described
 13 above, Plaintiff Olivia Fairchild sustained the following injuries:

- 14 1. Abrasions at multiple sites;
- 15 2. General stiffness and soreness
- 16 3. Emotional upset;
- 17 4. Fear of riding in a vehicle; and,
- 18 5. Sleep loss.

19 17.

20 As a result of Defendants' negligence, and each of them, and the injuries Plaintiff Olivia
 21 Fairchild sustained, Plaintiff Olivia Fairchild has incurred economic damages in the form of
 22 medical expenses in the amount of \$4,915.00. Therefore, her economic damages total
 23 \$4,915.00.

24 Page 7 – COMPLAINT (Personal Injury/Loss of Consortium)

25 Swanson, Lathen, Prestwich, PC

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18.

1 As a further result of Defendants' negligence, and each of them, and the injuries Plaintiff
2 Olivia Fairchild sustained, Plaintiff Olivia Fairchild has endured pain, suffering, disruption of her
3 normal activities, and emotional distress, all of which entitle her to noneconomic damages in the
4 amount of \$25,000.00.
5

19.

6 As a further result of Defendants' negligence, and each of them, and the injuries and
7 damages sustained by Plaintiff Levi Fairchild, Plaintiff Sarah Fairchild has sustained a loss of
8 consortium in the amount of \$500,000, all of which entitle her to economic damages in the
9 amount of \$500,000.00.
10

20.

11 Plaintiffs request a jury trial.
12

13 WHEREFORE, Plaintiff Levi Fairchild prays for judgment against Defendants, and each
14 of them, for his economic damages in the amount of \$1,797,940.36, for his noneconomic
15 damages in the amount of \$7,500,000.00, and for his reasonable costs and disbursements.
16

17 Plaintiff Olivia Fairchild prays for judgment against Defendants, and each of them, for
18 her economic damages in the amount of \$4,915.00, for her noneconomic damages in the
19 amount of \$25,000.00, and for her reasonable costs and disbursements.
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26 Page 8 – COMPLAINT (Personal Injury/Loss of Consortium)
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1 Plaintiff Sarah Fairchild prays for judgment against Defendants, and each of them, for
2 her economic damages for loss of consortium in the amount of \$500,000.00, and for her
3 reasonable costs and disbursements.

4 DATED this 7th day of July, 2020.

5 Respectfully submitted,

6 SWANSON, LATHEN, PRESTWICH, P.C.

7 
8 _____
9 Travis S. Prestwich, OSB No. 003617
10 Of Attorneys for Plaintiff
11 travis@slamlaw.com
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